

ORIGINAL

FILED IN  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

JUN 21 2019

at 10 o'clock and 39 min. A.M.  
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cc: JMS  
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Attorney for Defendant  
LOUIS M. KEALOHA

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KATHERINE P. KEALOHA (1),  
LOUIS M. KEALOHA (2),  
DEREK WAYNE HAHN (3),  
MINH-HUNG NGUYEN (4), and  
GORDON SHIRAISHI (5),

Defendants.

CR NO. 17-00582-JMS-WRP-02

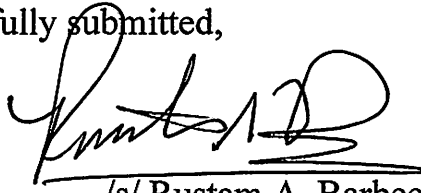
DEFENDANT LOUIS M. KEALOHA'S  
THEORY OF THE DEFENSE JURY  
INSTRUCTION; CERTIFICATE OF  
SERVICE

**DEFENDANT LOUIS M. KEALOHA'S  
THEORY OF DEFENSE JURY INSTRUCTION**

COME NOW Defendant LOUIS M. KEALOHA, by and through counsel,  
RUSTAM A. BARBEE, and respectfully submits his Theory of Defense Jury  
Instruction.

DATED: Honolulu, Hawaii, June 21, 2019.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Rustam A. Barbée', written over a horizontal line.

/s/ Rustam A. Barbée

RUSTAM A. BARBEE  
Attorney for Defendant  
LOUIS M. KEALOHA

**LOUIS M. KEALOHA'S THEORY OF DEFENSE INSTRUCTION**

The defendant Louis M. Kealoha's theory of his defense with regard to Count 2 of the indictment is that he did not act corruptly with the intent and purpose of obstructing justice by making a make a false statement at the criminal trial of Gerard Puana that the person depicted in the surveillance video of the alleged mailbox theft was Gerard Puana.

If you find that Louis M. Kealoha did not so act corruptly with the intent and purpose of obstructing justice, you must find him not guilty of the offense charged in Count 2.

Furthermore, the defendant Louis M. Kealoha's theory of his defense with regard to Counts 1, 3, 6, 8, and 10 of the indictment, is that he is not guilty because there was no conspiracy to commit any offenses against the United States. If you cannot find beyond a reasonable doubt that there was a conspiracy as alleged by the United States between two or more people to commit an offense against the United States, then you must find him not guilty as to all the counts he is charged in

It is also the theory of Mr. Kealoha that, even if there did exist a conspiracy between two or more people to commit an offense against the United States, he was never a member of the conspiracy. If you cannot find beyond a reasonable doubt that Mr. Kealoha was a member of the

conspiracy as alleged by the United States, then you must find him not guilty as to all the counts he is charged in.

*United States v. Perdomo-Espana*, 522 F.3d 983, 986-87 (9th Cir. 2008)(a defendant is entitled to have the jury instructed on his or her theory of defense, as long as the theory has support in the law and some foundation in the evidence). Ninth Circuit Model Criminal Jury Instruction 6.0 Introductory Comment, (2010).

**LOUIS M. KEALOHA'S THEORY OF DEFENSE INSTRUCTION**

The defendant Louis M. Kealoha's theory of his defense with regard to Count 2 of the indictment is that he did not act corruptly with the intent and purpose of obstructing justice by making a make a false statement at the criminal trial of Gerard Puana that the person depicted in the surveillance video of the alleged mailbox theft was Gerard Puana.

If you find that Louis M. Kealoha did not so act corruptly with the intent and purpose of obstructing justice, you must find him not guilty of the offense charged in Count 2.

Furthermore, the defendant Louis M. Kealoha's theory of his defense with regard to Counts 1, 3, 6, 8, and 10 of the indictment, is that he is not guilty because there was no conspiracy to commit any offenses against the United States. If you cannot find beyond a reasonable doubt that there was a conspiracy as alleged by the United States between two or more people to commit an offense against the United States, then you must find him not guilty as to all the counts he is charged in

It is also the theory of Mr. Kealoha that, even if there did exist a conspiracy between two or more people to commit an offense against the United States, he was never a member of the conspiracy. If you cannot find beyond a reasonable doubt that Mr. Kealoha was a member of the

conspiracy as alleged by the United States, then you must find him not guilty as to all the counts he is charged in.